

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MARC ANTHONY BROWN,

*Plaintiff,*

v.

NASA, ET AL.,

*Defendants.*

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CIVIL ACTION NO. H-10-3598

**ORDER OF DISMISSAL**

Marc Anthony Brown, TDCJ-CID #679706, a state inmate proceeding *pro se* and impliedly seeking leave to proceed *in forma pauperis*, filed this complaint alleging violations of his civil rights under 42 U.S.C. § 1983. Based on consideration of the pleadings, the record, and the applicable law, the Court DISMISSES this lawsuit for the reasons that follow.

*Background and Claims*

Plaintiff is currently incarcerated at the Ferguson Unit in Midway, Texas. He claims that, on September 16, 2010, an unnamed radio announcer on a Houston radio station stated during a radio broadcast that they were “watching” him in prison through a satellite. He claims that two days later, another radio announcer stated during a broadcast that he was “watching my sisters, mother, father, and brother at home and telling viewers-(listeners) what they were doing[.] He also spoke of NASA and him retaliating on me and my family.” (Docket Entry No. 1, p. 2.) Plaintiff reports that, later that same morning, he started talking back to the radio announcer and,

I heard my own voice on the radio station I was listening to, so I placed the headphones on and heard myself speaking like I was a caller to the radio station. I was then cursed and cussed out by an unfamiliar voice on the radio air waves announcing himself [sic] as NASA.

Everyday I have heard the prison officers and some inmates speak out about having Brown's pictures and addresses. 'I'll call the [radio station] and get them, their [sic] giving them at NASA and the [radio station].'

*Id.* Plaintiff claims that these events constitute a

[v]iolation of my Constitutional rights of the privacy law act, invasion of privacy, life endangering situations – (Attempted Capital Murder), harassment under the Texas penal code law, and sexual harassment, and by electronic radiation – (possibly cancer and other ailments), also to include environmental safety hazard.

*Id.* He names as defendants the directors, supervisors, technician and operation specialists of "Sam Houston Space Center of NASA," and, inexplicably, "college program students Government Department of NASA, who at all times mentioned in this complaint, held the position of college grant student and was assigned to educational learning skills." *Id.*, p. 1.

As judicial relief, plaintiff prays for compensatory and punitive damages, and a preliminary and permanent injunction

ordering defendants-employees of NASA to stop harassing me and turn their radar and satellite camera off me. Be placed in jail for criminal acts, have a restraining order and peace bond placed on them as well[,] and to be awarded any money they have made off of me, wether [sic] through music, clothing, or gifts, including internet advertising or viewing. As well as gifts or payments in any sort pertaining to my natural essence.

*Id.*, p. 3.

### *Analysis*

Under 28 U.S.C. § 1915(e)(2)(B), the Court may scrutinize the basis of the complaint and, if appropriate, dismiss the case if the lawsuit is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. An action is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Talib v. Gilley*, 138 F.3d 211, 213 (5th Cir. 1998). A complaint lacks an arguable basis in law if it is based on an indisputably meritless legal theory, such as if the complaint alleges violation of a legal interest which clearly does not exist. *Harris v. Hegmann*, 198 F.3d 153, 156 (5th Cir. 1999). A court may dismiss a claim as factually frivolous only if the facts alleged are “clearly baseless,” a category encompassing allegations that are “fanciful,” “fantastic,” and “delusional.” *Neitzke*, 490 U.S. at 325, 327, 328. As those words suggest, a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible. *Id.*

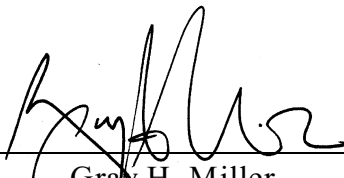
In the instant complaint, plaintiff sets forth factual allegations against the NASA defendants that rise to the level of the irrational or the wholly incredible; that is, plaintiff’s factual allegations are fanciful, fantastic, and delusional. While the Supreme Court has noted that truth can be stranger than fiction, *see Denton v. Hernandez*, 504 U.S. 25, 33 (1992), it is clear to this Court that plaintiff’s assertions of being watched and harassed in prison by NASA radar and satellite cameras or that NASA either intends to harm him or make money from unlawfully using his “natural essence,” is beyond the pale.

*Conclusion*

This lawsuit is DISMISSED under 28 U.S.C. § 1915A as frivolous for failure to state a claim. Any and all pending motions are DENIED AS MOOT.

The Clerk will provide a copy of this Order to the parties; to the TDCJ Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas 78711; and to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas, 75702, Attention: Inmate Three-Strike List Manager.

Signed at Houston, Texas, on October 26, 2010.

  
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Gray H. Miller  
United States District Judge